



Billing Code 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 121004518-3398-01; RTID 0648-XA446]

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Re-opening of Recreational Sector for Gulf of Mexico Gray Triggerfish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; re-opening.

SUMMARY: NMFS announces the re-opening of the recreational sector for gray triggerfish in the exclusive economic zone (EEZ) of the Gulf of Mexico (Gulf) through this temporary rule. The most recent recreational landings of gray triggerfish indicate that the recreational annual catch target (ACT) for 2020 fishing year has not yet been reached. Therefore, NMFS re-opens the recreational sector for gray triggerfish in the Gulf EEZ on September 1, 2020, through October 25, 2020, or until the recreational ACT is reached or projected to be reached, whichever happens first, to allow the recreational ACT to be caught.

DATES: This rule is effective 12:01 a.m., local time, September 1, 2020, until 12:01 a.m., local time, October

26, 2020.

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, NMFS
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SUPPLEMENTARY INFORMATION: NMFS manages the Gulf reef fish fishery, which includes gray triggerfish, under the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) through regulations at 50 CFR part 622. All gray triggerfish weights discussed in this temporary rule are in round weight.

The recreational annual catch limit (ACL) for Gulf gray triggerfish is 241,200 lb (109,406 kg), and the recreational ACT is 217,100 lb (98,475 kg) (50 CFR 622.41(b)(2)(iii)).

As specified in 50 CFR 622.41(b)(2)(i), NMFS is required to close the recreational sector for gray triggerfish when the recreational ACT is reached or is projected to be reached by filing a notification to that effect with the Office of the Federal Register. NMFS previously projected that the recreational ACT for the Gulf

gray triggerfish for the 2020 fishing year would be reached by May 2, 2020. Accordingly, NMFS published a temporary rule in the **Federal Register** to implement the accountability measure (AM) to close the recreational sector for gray triggerfish in the Gulf EEZ effective from May 2, 2020, until the start of the 2021 fishing year on January 1, 2021 (85 FR 10624, February 25, 2020).

However, the most recent landings data for gray triggerfish now indicate the recreational ACT has not been reached. Consequently, and in accordance with 50 CFR 622.8(c), NMFS temporarily re-opens the recreational sector for gray triggerfish on September 1, 2020. The recreational sector will remain open through October 25, 2020, or until the recreational ACT is reached or projected to be reached, whichever happens first. Re-opening the recreational sector allows participants in that sector an additional opportunity to harvest gray triggerfish while minimizing the risk of exceeding the recreational ACT.

Once the recreational sector closes again on October 26, 2020, or sooner if the recreational ACT is reached or projected to be reached, the bag and possession limits for gray triggerfish in or from the Gulf EEZ are zero. The prohibition on possession of Gulf gray triggerfish also applies in Gulf state waters for any vessel issued a valid

Federal charter vessel/headboat permit for Gulf reef fish.

Classification

NMFS issues this action pursuant to section 305(d) of the Magnuson-Stevens Act. This action is required under 50 CFR 622.8(c) which was issued pursuant to section 304(b) of the Magnuson-Stevens Act, and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA), finds that the need to immediately implement this action to temporarily re-open the recreational sector for gray triggerfish constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b) (B), as such procedures are unnecessary and contrary to the public interest. Such procedures are unnecessary because the regulations at 50 CFR 622.8(c) and the rule implementing the recreational ACT and AMs have already been subject to notice and comment, and all that remains is to notify the public of the re-opening. Such procedures are contrary to the public

interest because of the need to immediately implement this action to allow recreational fishers to harvest the remainder of the recreational ACT beginning on September 1, 2020. Prior notice and opportunity for public comment would require time and would delay the re-opening of the recreational sector. Opening the recreational sector by September 1 provides an opportunity for recreational fishers to make trips during the early fall when the weather is generally more favorable. A delay of reopening until October increases the likelihood of inclement weather and the chance that recreational trips will not be possible.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1801 *et seq.*

Dated: August 27, 2020.

Jennifer M. Wallace,
Acting Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

